

ARLO Deadline Calendar
Week of April 8, 2019

NEW CASES, NOTICES OF CITIZEN SUIT, and PETITIONS NEW CASES

NEW CASES

NOTICES OF CITIZEN SUIT

PETITIONS

- Title V petition to object to the Title V operating permit prepared by the Arkansas Department of Environmental Quality for the proposed Highland Pellets South wood pellet manufacturing facility in Stephens, Arkansas. Petition submitted on behalf of Dogwood Alliance, Partnership for Policy Integrity, Natural Resources Defense Council, Our Children's Earth, and Environmental Integrity Project.

NEW DECISIONS and SETTLEMENTS

- *Mexichem Fluor v. EPA* ("Mexichem II"), No. 17-1024 (D.C. Cir.) – favorable decision

UPCOMING LITIGATION and COURT-ORDERED AND RELATED DEADLINES

UPCOMING LITIGATION DEADLINES

In the coming two weeks

- 04/08 EPA Brief
State of California, et al. v. EPA, No. 18-1114 (D.C. Cir.) (petition for review of EPA's final action titled "Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles" at 83 Fed. Reg. 16,077-87 (Apr. 13, 2018)) (Mark Kataoka)
- 04/09 Status Report
American Petroleum Institute, et al. v. EPA, No. 13-1108 (DC Cir.) (Petition for review of 2012 oil and gas NSPS revision (bifurcated from challenge to 2012 NESHAP and consolidated with challenges to 2014 NSPS amendment and 2016 NSPS setting methane standards)) (Amy Branning)
- 04/09 Status Report
National Parks Conservation Association, et al. v. EPA, No. 17-1253 (D.C. Cir.) (challenge to reaffirmation of CSAPR>BART/ the Texas Remand Rule) (Daniel Schramm)
- 04/09 Status Report
State of West Virginia, et al. v. EPA, No. 15-1363 (D.C. Cir.) (CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64, 662 (October 23, 2015)) (Scott Jordan)

- 04/10 Status Report
State of Arkansas v. EPA, No. 16-4270 (8th Cir.) (Petition for review of EPA's regional haze FIP for Arkansas, 81 Fed. Reg. 66,332) (September 27, 2016) (Nora Greenglass)
- 04/12 Parties shall appear for a status hearing to discuss the progress of this case.
State of New York, et al. v. EPA, No. 1:18-cv-00773 (D. D.C.) (for failure to establish guidelines for standards of performance for methane emissions from existing oil and gas operations) (Amy Branning, Derek Mills)
- 04/14 Status Report
National Environmental Development Association's Clean Air Project v. EPA, No. 17-1016 (D.C. Cir.) (petition for review challenging revisions to the refrigerant management regulations under CAA section 608) (Melina Williams)
- 04/15 Status Report
Murray Energy Corporation v. EPA, No. 16-1127 (DC Cir.) (petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016)) (Karen Bianco, Kaytrue Ting)
- 04/15 Status Reports
National Waste & Recycling Association, et al. v. EPA, No. 16-1372 (DC Cir.) (petition for review of EPA's final rule entitled "Standards of Performance for Municipal Solid Waste Landfills." at 81 Fed. Reg. 59; 332 (Aug. 29, 2016)) (Karen Palmer)
- 04/15 Status Report
National Waste & Recycling Association, et al. v. EPA, No. 16-1371 (DC Cir.) (Petition for review of EPA's final action entitled "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills; Final Rule." at 81 Fed. Reg. 59; 276 (Aug. 29, 2016)) (Karen Palmer)
- 04/15 Status Report
Sierra Club v. EPA, No. 1:17cv2174 (D. DC) (for failure to conduct triennial reports to congress on Environmental and Conservation Impacts of the Renewable Fuel Standard and failure to conduct Anti-Backsliding Analysis or determine if mitigation measures are necessary) (Seth Buchsbaum)
- 04/15 Status Report
National Parks Conservation Association, et al. v. EPA, No. 1:11-cv-1548 (D.D.C.) (Complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs) (Daniel Schramm, Nora Greenglass)

Deadlines beyond two weeks

- 04/16 Answer/Dispositive Motions Due
Animal Legal Defense Fund et.al. v. US, No. 6:18-cv-01860-MC (D. Ore.) (constitutional claims against EPA and other agencies for contributing to and failing to abate climate change) (Daniel Conrad)

- 04/22 Status Report
Sierra Club v. EPA, No. 17-1227 (DC Cir.) (Petition for review of the Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard-Round 2 at 81 Fed. Reg. 45039 (July 12, 2016)) (Andrea Carrillo)
- 04/22 Status Report
American Chemistry Council et al v. EPA, No. 08-1014 (D.C. Cir.) (Petitions for review of 2007 revisions to NSPS for Leak Detection and Repair for refineries and chemical processing plants) (Amy Branning)
- 04/22 Answer
Our Children's Earth Foundation v. EPA, No. 3:18-cv-04765-SK (N.D. CA) (for failure to review and revise certain National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards every eight years) (Daniel Schramm, Jan Tierney, Lea Anderson)
- 04/22 Status Report
State of Indiana v. EPA, No. 18-1074 (D.C. Cir.) (Challenge to the nonattainment designation for Huntington Township, Indiana contained in Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard—Round 3 (83 Fed. Reg. 1098)) (Andrea Carrillo, Mike Thrift)
- 04/25 Hearing on the Cross Motions
State of California, et al. v. EPA, No. 3:18-cv-03237-SK (N.D. CA) (for failure to enforce the 2016 Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (Karen Palmer)
- 04/26 Motion to Govern Further Proceedings
Downwinders at Risk, et al. v. EPA, No. 18-1260 (D.C. Cir.) (petition for review of EPA's final action titled "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review" at 83 Fed. Reg. 35,122 (July 25, 2018)) (Jonathan Averbach)
- 04/30 Status Report
State of North Dakota v. EPA, No. 15-1381 (DC Cir.) (EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units" at 80 Fed. Reg. 64510 (October 23, 2015) (Scott Jordan)
- 04/30 Status Report
Biogenic CO₂ Coalition v. EPA, No. 16-1358 (DC Cir.) (challenge to endangerment finding for GHG from aircraft) (Melina Williams)
- 05/01 Oral Argument (Panel not yet announced)
Sierra Club v. EPA, 18-1038 (D.C. Cir.) petition for review of EPA's final action in In the Matter of PacifiCorp Energy - Hunter Power Plant, Emery County, Utah at 82 Fed. Reg. 58196 (Dec. 11, 2017) (John Krallman)
- 05/01 EPA Response Brief
Advanced Biofuels Association v. EPA, No. 18-1115 (DC Cir.) (Petition for review of EPA's decision to modify the criteria or lower the threshold by which the Agency determines whether to

- grant small refineries an exemption from the CAA’s Renewable Fuel Standards for reasons of “disproportionate economic hardship.”) (Susan Stahle)
- 05/03 Oral Argument
Natural Resources Defense Council v. EPA, No. 18-1172 (D.C. Cir.) (petition for review of EPA's notice in the Federal Register titled “Protection of Stratospheric Ozone: Notification of Guidance and a Stakeholder Meeting Concerning the Significant New Alternatives Policy (SNAP) Program” explaining the effect of the Court's partial vacatur of EPA’s final rule prohibiting certain uses of hydrofluorocarbons (83 Fed. Reg. 18; 431 (April 27, 2018))
- 05/05 Status Report
American Petroleum Institute v. EPA, No. 12-1405 (D.C. Cir.) (Petitions for review of EPA's 2012 oil and gas NESHAP revision based on residual risk and technology review (Amy Branning)
- 05/06 Status Report
State of Texas, et al. v. EPA, No. 17-1021 (D.C. Cir.) (Petition for review of EPA’s final action titled “Protection of Visibility: Amendments to Requirements for State Plans,” 82 Fed. Reg. 3078 (Jan. 10, 2017)) (Nora Greenglass)
- 05/09 Status Report
Environmental Committee of the Florida Electric Power Coordinating Group, Inc., et al. v. EPA No. 15-1239 (D.C. Cir.) (challenge to 2015 SSM SIP call) (Emily Seidman)
- 05/09 Status Report
Southern Illinois Power Cooperative v. EPA, No. 17-1173 (DC Cir.) (petition for review of EPA’s final action entitled “Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard—Round 2,” 81 Fed. Reg. 45039 (July 12, 2016)) (Andrea Carrillo)
- 05/10 Respondent's Initial Brief Due
Clean Wisconsin, et al. v. EPA, No. 18-1203 (D.C. Cir.) (petition for review of EPA's final action titled “Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards” at 83 Fed. Reg. 25,776 (June 4, 2018)) (Seth Buchsbaum)
- 05/15 Joint Status Report
State of Maryland v. EPA, No. 1:17cv2873 (D. MD) (for EPA’s failure to hold a public hearing and take final action on the State’s section 126 petition. The State’s petition asks EPA to find that 36 power plant units located in Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia are significantly contributing to nonattainment or interfering with maintenance of the 2008 ozone NAAQS in Maryland) (Abi Vijayan)
- 05/17 U.S. Amicus Brief (if any)
City of Oakland, et al. v. BP plc, et al. (18-16663) (9th Cir.) (appeal from dismissal of public nuisance claims based on harms from climate change brought by the cities of Oakland and San Francisco) (Melina Williams)

- 05/20 Status Report
Kaiser Aluminum Corporation v. EPA, No. 15-1423 (DC Cir.) (petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56,700 (September 18, 2015)) (Emily Seidman)
- 05/22 Status Report
Mossville Environmental Action Now, et al. v. EPA, No. 12-1263 (D.C. Cir.) (Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production," 77 Fed. Reg. 22,848 (April 17, 2012) (Susmita Dubey)
- 05/24 EPA's Response and Cross-Motion for Summary Judgment
Citizens For Clean Air, et al. v. EPA, No. 2:18-cv-01803 (W.D. WA) (for failure to make a completeness determination regarding the state of Alaska's failure to timely submit a proposed SIP addressing requirements newly triggered by EPA's designation of the Fairbanks North Star Borough as a 2006 24-hour fine particulate matter "Serious" nonattainment area) (Geoffrey Wilcox)
- 05/27 Status Report
National Alliance of Forest Owners, et al. v. EPA; No. 10-1209 (D.C. Cir.) (NAFO/AFPA PETITION RE BIOGENIC EMISSIONS UNDER TAILORING RULE - Challenge to EPA's treatment of Biogenic Emissions in Tailoring Rule, 75 Fed. Reg. 31, 514 (June 3, 2010) (Nora Greenglass)
- 05/28 Status Report
Gas Processors Association v. EPA, No. 11-1023 (D.C. Cir.) (petition for review of EPA's final rule entitled "Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010)) (Andrea Carrillo)
- 05/28 Status Report
American Petroleum Institute v. EPA, No. 15-1020 (DC Cir.) (Petition for Review of "Greenhouse Gas Reporting rule: 2014 Revisions and Confidentiality Determinations from Petroleum and Natural Gas Systems," 79 Fed. Reg. 70352 (Nov. 25, 2014) (Andrea Carrillo)
- 05/28 Status Report
Gas Processors Association v. EPA, No. 15-1473 (DC Cir.) (petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015)) (Andrea Carrillo)
- 05/28 Hearing on Cross-Motion for Summary Judgment
Center for Biological Diversity, et al. v. EPA, No. 3:18-cv-03544-DMR (N.D. CA) (Alleging failure to take action on 17 pending 2010 SO2 SIPs for nonattainment areas in 9 states (Florida, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, West Virginia, and Wisconsin) and failure to issue findings of failure to submit regarding 2 overdue 1972 SO2 SIPs for nonattainment areas in 2 states (Arizona and New Jersey)) (Mike Thrift)
- 05/29 Answer
Center for Biological Diversity, et al. v. EPA, No. 19-70340 (9th Cir.) (petition for review of EPA's final action entitled "Clean Air Act Prevention of Significant Deterioration Permit Issued

- to Palmdale Energy LLC for the Palmdale Energy Project” at 83 Fed. Reg. 63,638 (Dec. 11, 2018)) (John Krallman, Mark Kataoka)
- 05/31 Status Report
State of Texas, et al. v. EPA, No. 16-60118 (5th Cir.) (Petition for review of EPA’s final action titled “Approval and Promulgation of Implementation Plans, Texas and Oklahoma, Regional Haze State Implementation Plans, Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze, Federal Implementation Plan for Regional Haze, Final Rule,” 81 Fed. Reg. 296 (Jan. 5, 2016)) (Daniel Schramm, Nora Greenglass)
- 05/31 Answer
Center for Biological Diversity, et al. v. EPA, No. 4:19-cv-01544-KAW (N.D. CA) (alleging that EPA failed to perform its mandatory duties to reclassify to serious the West Central Pinal (AZ) 2006 24- hour PM2.5 Nonattainment Area, to promulgate a FIP and impose sanctions for Arizona’s NSR program defects, and to make findings of failure to submit for the Provo and Salt Lake City, Utah serious 2006 24-hour averaging time PM2.5 Nonattainment Areas.) (Stephanie Hogan)
- 06/03 Status Report
Utility Air Regulatory Group, et al. v. EPA, No. 04-1076 (D.C. Cir.) (Petition for review of final rule promulgating monitoring requirements for particulate matter continuous emissions monitoring systems at new stationary sources) (Amy Branning)
- 06/04 Oral Argument
Kelsey Cascadia Rose Juliana, et al. v. United States of America, No. 18-80176 (9th Cir.) (Appeal from the United States District Court for the District of Oregon (No. 6:15-cv-01517-AA alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change, Portland, Ore.) (Daniel Conrad, Melina Williams, Zach Pilchen)
- 06/10 Status Report
State of Utah, et al. v. EPA, No. 16-9541 (10th Cir.) (petition for review of EPA’s final rule entitled “Approval, Disapproval and Promulgation of Air Quality Implementation Plans, Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Federal Implementation Plan, Utah, Revisions to Regional Haze State Implementation Plan, Federal Implementation Plan for Regional Haze” at 81 Fed. Reg. 43,894-01 (July 5, 2016)) (Nora Greenglass)
- 06/14 EPA Brief
State of New York, et al. v. EPA, No. 19-1019 (D.C. Cir.) (petition for review of EPA's final action titled “Determination Regarding Good Neighbor Obligations for the 2008 Ozone National Ambient Air Quality Standard” at 83 Fed. Reg. 65,878 (Dec. 21, 2018)) (Stephanie Hogan)
- 06/19 EPA's Brief
Crossett Concerned Citizens for Environmental Justice, et al. v. EPA, No. 17-1257 (D.C. Cir.) (PULP AND PAPER SUBPART MM RTR RULE CHALLENGE - petition for review of EPA’s final action titled “National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills” 82 Fed. Reg. 47,328 (Oct. 11, 2017)) (Scott Jordan)

- 06/24 EPA's Brief
Sierra Club v. EPA, No. 18-5328 (DC Cir.) (appeal of the CISWI/OSWI deadline suit (16-2461) - appealing the holding that there is no mandatory duty with respect to the federal plan obligation) (Jan Tierney, Karen Bianco)
- 06/25 Defendants' Reply in Support of Cross-Motion for Summary Judgment
Citizens For Clean Air, et al. v. EPA, No. 2:18-cv-01803 (W.D. WA) (for failure to make a completeness determination regarding the state of Alaska's failure to timely submit a proposed SIP addressing requirements newly triggered by EPA's designation of the Fairbanks North Star Borough as a 2006 24-hour fine particulate matter "Serious" nonattainment area) (Geoffrey Wilcox)
- 06/26 Brief of Respondents
State of Maryland v. EPA, No. 18-1285 (D.C. Cir.) (petition for review of EPA's final agency action entitled "Response to Clean Air Act Section 126(b) Petitions From Delaware and Maryland" at 83 Fed. Reg. 50,444 (October 5, 2018)) (Abi Vijayan)

UPCOMING COURT-ORDERED AND RELATED DEADLINES

CASES and MAJOR MOTIONS AWAITING DECISION

- *State of West Virginia, et al. v. EPA*, No. 15-1363 (D.C. Cir.) CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." (Scott Jordan) (argued September 27, 2016)
- *United States Steel Corporation v. EPA*, No. 16-2668 (8th Cir.) (Petition for review of EPA's final action titled "Air Plan Approval, Minnesota and Michigan, Revision to 2013 Taconite Federal Implementation Plan Establishing BART for Taconite Plants," 81 Fed. Reg. 21,672 (Apr. 12, 2016)) (Matthew Marks) (argued Nov. 15, 2017)
- *Wisconsin v. EPA*, No. 16-1406 (D.C. Cir.) (petition for review of EPA's Final Rule titled "Cross State Air Pollution Rule Update for the 2008 Ozone NAAQS" 81 Fed. Reg. 74, 504 (October 26, 2016) (Stephanie Hogan, Dan Schramm, Kaytrue Ting) (argued October 3, 2018)
- *Alon Refining Krotz Springs, Inc., et al. v. EPA*, No. 16-1052 (DC Cir.) and *Coffeyville Resources Refining & Marketing, LLC, et al. v. EPA*, No. 17-1044, (D.C. Cir.) (petition for review of EPA's rule entitled EPA; Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14, 670 (Mar. 26, 2010)) (challenging RFS point of obligation) (Roland Dubois, Ryland Li) (argued October 5, 2018)
- *State of California v. EPA*, No. 4:18-cv-03237-HSG (N.D. CA.) Hearing on EPA's Motion to Dismiss Plaintiff's Mandatory Duty Suit regarding Municipal Solid Waste Landfills Emission Guidelines based on lack of jurisdiction and failure to state a claim. (Karen Palmer) (hearing October 25, 2018)
- *Valero Energy Corporation v. EPA*, No. 18-1028 (D.C. Cir.) (petition for review of EPA's final action entitled Periodic Reviews for the Renewable Fuel Standard Program, notice of which was published in the Federal Register at 82 Fed. Reg. 58; 364 (Dec. 12, 2017)) (Ryland Li) (argued November 08, 2018)
- *State of New York, et al. v. EPA*, No. 17-1273 (D.C. Cir.) (petition for review of EPA's final action "Response to the December 9, 2013, Clean Air Act Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania,

- Rhode Island, and Vermont,” 82 Fed. Reg. 51,238 (November 3, 2017)) (Daniel Schramm) (argued November 28, 2018)
- ***Sierra Club v. EPA***, No. 16-1158 (D.C. Cir.) (Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) (Jonathan Skinner-Thompson) (argued December 10, 2018)
 - ***Murray Energy Corporation v. EPA***, No. 15-1385 (DC Cir.) (Petition for review of EPA’s final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015)) (Melina Williams) (argued December 12, 2018)
 - ***American Fuel & Petrochemical Manufacturers, et al. v. EPA***, No. 17-1258 (D.C. Cir.) (petition for review of EPA’s final action titled "Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019" at 82 Fed. Reg. 58,486-58,527 on December 12, 2017) (Ryland Li) (argued February 20, 2019)
 - ***California Communities Against Toxics, et al. v. EPA***, No. 18-1085 (DC Cir.) (MACT MAJOR TO AREA/ONCE-IN-ALWAYS-IN MEMORANDUM LITIGATION - Memorandum from William Wehrum, dated January 25, 2018, entitled “Issuance of Guidance Memorandum, ‘Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act’ and Federal Register notice published at 83 Fed Reg 5543 (Feb. 8, 2018) (Scott Jordan) (argued April 1, 2019)